

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
) File No.: EB-04-DL-034
Stephen L. Tork)
) Citation No.: C20063250001
d.b.a. Hotshot CB II)
d.b.a. Hotshot's CB Shop)
)
Pauls Valley, Oklahoma 73075)

CITATION

Released: September 29, 2006

By the District Director, Dallas Office, South Central Region, Enforcement Bureau:

1. This is an Official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Act"),¹ to Stephen L. Tork d.b.a. Hotshot CB II ("Stephen L. Tork") for violation of Section 302(b) of the Act,² and Sections 2.803(a)(1), 2.815(b) and 2.815(c) of the Commission's Rules ("Rules").³

2. Investigation by the Commission's Dallas Office of the Enforcement Bureau ("Dallas Office") revealed that on July 21, 2006, Stephen L. Tork offered for sale non-certified Citizens Band ("CB") transceivers, namely, Galaxy models DX55V and DX48T, Superstar model 121, General model AP Hill, and Northpoint model NT-9-HP. These transceivers did not have FCC ID labels indicating they had been certified. According to Commission records, these devices have not received an FCC equipment authorization, which is required for CB transmitters marketed in the United States.

3. Stephen L. Tork also offered for sale several non-certified External Radio Frequency Power Amplifiers, namely models made by Texas Star, Hotshot, and Palomar.

4. Section 302(b) of the Act provides: "No person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section." Section 2.803(a)(1) of the Rules provides that "...no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless: (1) In the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in

¹ 47 U.S.C. § 503(b)(5).

² 47 U.S.C. § 302a(b).

³ 47 C.F.R. §§ 2.803(a)(1), 2.815(b), 2.815(c).

this chapter and is properly identified and labeled...” Stephen L. Tork’s offering for sale of the transceivers listed in paragraph 2 violates both of these sections.

5. Although Stephen L. Tork marketed the devices listed in paragraph 2 as 10 meter mobile radios, the Commission has evaluated devices similar to those at issue and concluded that they fall within the definition of a CB transmitter because they can be easily configured to operate on CB frequencies.⁴

6. Additionally, dual use CB and amateur radios of the kind at issue here may not be certificated under the Rules.⁵

7. Section 2.815(c)⁶ of the Rules prohibits the manufacture, sale, or offering for sale of any External Radio Frequency Power Amplifier (or amplifier kits) capable of operation on any frequency below 144 MHz unless the amplifier has received a grant of type acceptance. Furthermore, Section 2.815(b)⁷ of the Rules prohibits the sale or marketing of External Radio Frequency Power Amplifiers (or amplifier kits) capable of operating on any frequency between 24 and 35 MHz. Stephen L. Tork’s offering for sale of the non-certified External Radio Frequency Power Amplifier brands listed in paragraph 3 violates both of these sections and Section 302(b) of the Act.

8. Violations of the Act or the Rules may subject the violator to substantial monetary forfeitures,⁸ seizure of equipment through *in rem* forfeiture action, and criminal sanctions, including imprisonment.⁹

9. Stephen L. Tork may request an interview at the closest Commission Office, which is Federal Communications Commission, 9330 LBJ Freeway, #1170, Dallas, Texas 75243.¹⁰ You may contact this office by telephone, XXX XXX-XXXX, to schedule this interview, which must take place within 14 days of this Citation. Stephen L. Tork may also submit a written statement to the above address within 14 days of the date of this Citation. Any written statements should specify what actions have been taken to correct the violations outlined above. Please reference file number EB-04-DL-034 when corresponding with the Commission.

10. Any statement or information provided by you may be used by the Commission to determine if further enforcement action is required.¹¹ Any knowingly or willfully false statement made in reply to this Citation is punishable by fine or imprisonment.¹²

⁴ See Letter from Christopher Wright, General Counsel, FCC to John Atwood, Chief Intellectual Property Rights, US Customs Service, 14 FCC Rcd 7797 (OGC, 1999). See also definition of CB transmitter, 47 C.F.R. § 95.603(b) (“transmitter that operates or is intended to operate at a station authorized for the CB service”).

⁵ 47 C.F.R. § 95.655(a); see also FCC 88-256, 1988 WL 488084 (August 17, 1988). This clarification was added to explicitly foreclose the possibility of certification of dual use CB and amateur radios, *see id.*, and thereby deter use by CB operators of frequencies allocated for amateur radio use.

⁶ 47 C.F.R. § 2.815(c).

⁷ 47 C.F.R. § 2.815(b).

⁸ 47 C.F.R. § 1.80(b)(3).

⁹ 47 U.S.C. §§ 401, 501, 503, 510.

¹⁰ 47 U.S.C. § 503(b)(5).

¹¹ See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

¹² See 18 U.S.C. § 1001 *et seq.*

11. **IT IS ORDERED** that copies of this Citation shall be sent by First Class U.S. Mail and Certified Mail, Return Receipt Requested to Stephen L. Tork at his address of record and to the address of record for Hotshot CB II.

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells
District Director, Dallas Office
South Central Region
Enforcement Bureau